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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,388	02/28/2002	Mark Nelson Robins	10011708-1	1290

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EXAMINER

TESLOVICH, TAMARA

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/086,388

Applicant(s)

ROBINS ET AL.

Examiner

Tamara Teslovich

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

This action is in response to the Application filed February 28, 2002.

Claims 1-24 are considered below.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "the system of claim 1, wherein the *time adjuster*" in line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 14-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A computer program is not statutory subject matter.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,044,349 by Tolopka et al., hereinafter referred to as Tolopka.

As per claim 18, Tolopka discloses a method for providing security to property having an image capture device, the method comprising the steps of: capturing a first image of an object with the image capture device; generating an image key, the image key corresponding to the first image of the object; capturing a second image of the object with the image capture device; comparing the image key with the second image of the object; and enabling use of the property only if the image key corresponds to the second image of the object (see Tolopka col.3 lines 36-65).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,937,068 by Yves Audebert and further in view of US Patent No. 6,044,349 by Tolopka et al.

As per claim 1, Audebert discloses a system for preventing unauthorized use of property (second unit), comprising a security file corresponding to an object residing in memory of the electronic device (abstract); an image key (first unit), the image key corresponding to the object (col.4); a processor configured to compare the image key with the security file corresponding to the object, and further configured to enable use of the electronic device only if the security file corresponds to the image key (abstract; col.4 lines 60-67); and a security timer configured to time a period of time such that the processor compares the image key with the security file after the time period has elapsed (see Audebert col.3 lines 43-52).

Audebert fails to teach wherein the system includes an image capture system configured to capture an image of an object, and further configured to generate data corresponding to the image (security file) of the captured image.

Tolopka teaches the secure information retrieval method and apparatus of Audebert wherein the system includes an image capture system configured to capture an image of an object (biometric scan, retinal scan, finger print scan, anatomy recognition), and further configured to generate data corresponding to the image of the

captured image (see Tolopka col.3 lines 42-54). The card also contains an adjustable timer used to limit access times (see Tolopka col.5 lines 38-54).

It would have been obvious to a person of average skill in the area at the time of the invention to include within Audebert's smart card the information corresponding to captured images as described in Tolopka to provide a secondary means of authentication.

As per claim 2, Audebert discloses wherein the electronic device comprises at least one selected from a group consisting of a digital camera, a personal computer, a laptop computer, a personal digital assistant, an automobile, a boat, an airplane, and an enclosure (see Audebert col.12 lines 20-27; col.14 lines 37-42).

As per claim 3, Audebert discloses wherein the security timer is a hardware component coupled to the processor and configured to communicate a signal to the processor indicating that the time period has elapsed (see Audebert col.14 lines 14-36).

As per claim 4, Audebert discloses a unit of memory configured to store the security time as logic such that the processor executes the security timer logic to time the time period (see Audebert col.14 lines 14-36).

As per claim 5, Audebert discloses a timer adjuster configured to adjust the time period of time timed by the security timer (see Audebert col.3 line 30 thru col.4 line 7).

As per claim 6, Audebert discloses wherein the timer adjuster is at least one selected from a group consisting of at least one touch-sensitive button, at least one pushbutton, a touch pad display and a menu displayed on a display (see Audebert col.3 line 30 thru col.4 line 7; col.7 line 65 thru col.8 line 6).

Claim 7 is directed towards the method of the system of claim 1 and is rejected by similar rationale.

As per claim 8, Audebert discloses the step of disabling the electronic device when the image key does not correspond to the captured image of the object, wherein the step of disabling the property is performed at the conclusion of the time period (see Audebert col.8 lines 45-48).

Claim 9 is directed towards the method of the system of claim 2 and is rejected by similar rationale.

As per claim 10, Tolopka discloses generating the image key from a second captured image of the object; and saving the image key in a memory, the steps of generating and saving performed before the steps of receiving comparing and enabling (see Tolopka col.3 lines 38-54).

As per claim 11, Tolopka discloses communicating activation of the property to a security timer; and communicating an end of timing period to a processor such that the processor performs the steps of receiving, comparing and enabling (see Tolopka col.3 lines 52-54; col.5 lines 45-54).

As per claim 12, Tolopka discloses executing a security timer logic residing in a memory with a processor; and beginning the steps of receiving, comparing and enabling when the time period has elapsed (see Tolopka col.3 lines 52-54; col.5 lines 45-54).

Claim 13 is directed towards the method of the system of claim 5 and is rejected by similar rationale.

Claim 14 is directed towards the software utilized in the system of claim 1 and is rejected by similar rationale.

Claim 15 is directed towards the software utilized in the system of claim 8 and is rejected by similar rationale.

Claim 16 is directed towards the software utilized in the system of claim 4 and is rejected by similar rationale.

Claim 17 is directed towards the software utilized in the system of claim 5 and is rejected by similar rationale.

As per claim 19, Tolopka discloses the method of claim 18, but fails to disclose the step of disabling property when the image key does not correspond to the captured image of the object.

Audebert teaches the step of disabling property when the image key does not correspond to the captured image of the object (see Audebert col.8 lines 45-48).

It would have been obvious to a person of average skill in the area at the time of the invention to include within Tolopka's method of providing security the additional disabling feature of Audebert to provide increased security against unauthorized users.

As per claim 20, Audebert discloses wherein the electronic device comprises at least one selected from a group consisting of a digital camera, a personal computer, a laptop computer, a personal digital assistant, an automobile, a boat, an airplane, and an enclosure (see Audebert col.12 lines 20-27; col.14 lines 37-42).



As per claim 21, Audebert discloses the step of timing a time period such that the steps of comparing and enabling are performed at the conclusion of the time period (see Audebert col.3 lines 43-52).

As per claim 22, Tolopka discloses communicating activation of the property to a security timer; and communicating an end of timing period to a processor such that the processor performs the steps of receiving, comparing and enabling (see Tolopka col.3 lines 52-54; col.5 lines 45-54).

As per claim 23, Tolopka discloses executing a security timer logic residing in a memory with a processor; and beginning the steps of receiving, comparing and enabling when the time period has elapsed (see Tolopka col.3 lines 52-54; col.5 lines 45-54).

As per claim 24, Audebert discloses the step of adjusting the time period (col.3 line 30 thru col.4 line 7).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

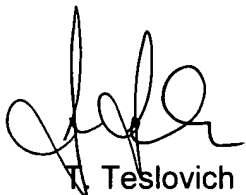
US Patent No. 5,754,227 by Hiroki Fukuoka discloses a digital electronic camera having an external interface through which access to the camera and data thereon can be controlled. The Examiner calls particular attention to column 1 line 58 through column 2 line 7, column 4 lines 38-40, column 6 lines 31-37, column 7 lines 47-50, and column 9 lines 23-32 and 43-46.

Japanese Patent Application No. 11-232347 by Kobayashi Kiyooki is also of particular interest to the Examiner in that it describes a security method and apparatus for use with an imaging system and IC card wherein enciphered information is recorded on the card, permitting access only when all the things read in this portable record are in agreement with the information recorded in the imaging device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara Teslovich whose telephone number is (571) 272-4241. The examiner can normally be reached on Mon-Fri 8-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



T. Teslovich

September 15, 2005



MATTHEW SMITHERS  
PRIMARY EXAMINER  
Art Unit 2137